

# MAYOR & COUNCIL AGENDA COVER SHEET

**MEETING DATE:**

May 20, 2002

**RESPONSIBLE STAFF:**

Jennifer Russel

**AGENDA ITEM:**

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
	Public Hearing
	Historic District
	Consent Item
	Ordinance
X	Resolution
	Policy Discussion
	Work Session Discussion Item
	Other:

**PUBLIC HEARING HISTORY:**

(Please complete this section if agenda item is a public hearing)

Introduced	
Advertised	
Hearing Date	
Record Held Open	
Policy Discussion	

**TITLE:**

Resolution of Mayor and City Council Authorizing the City Manager to Record a Declaration of Covenants on the Crown Farm Parcel Limiting Its Use in the Future

**SUPPORTING BACKGROUND:**

In conjunction with the annexation (X-180) of the Crown property, purchased by the City with the assistance of Program Open Space funds, a covenant has been drafted by the City Attorney to limit its use in the future.

Once recorded, this document will establish controls on the property to assure its retention in a natural state. The document specifically prohibits any residential, commercial or industrial use, as well as advertising or commercial sign display.

The attached resolution authorizes the City Manager to take the steps necessary to record this document, which will be legally binding on the property. This action is in direct response to guidance provided by the Mayor and Council and responds to concerns raised by the adjacent community.

**Attachments:**

- Resolution
- Covenant

**DESIRED OUTCOME:**

Adopt resolution.

**DECLARATION OF COVENANTS**

THIS DECLARATION made this \_\_\_\_ day of \_\_\_\_ 2002 by the City of Gaithersburg, Maryland, a Maryland Municipal Corporation whose mailing address is 31 S. Summit Avenue, Gaithersburg, Maryland hereinafter referred to as the "Covenantor".

**WITNESSETH**

WHEREAS, Covenantor is the fee simple owner of a certain parcel of property containing 4.1987 acres of land located along Crown Farm Drive (formerly Fields Road) being land conveyed to the Covenantor by deed dated December 21, 2001 and recorded among the Land Records of Montgomery County, Maryland in Liber 20208 at Folio 115 and being more particularly described in Exhibit A, attached hereto and made a part hereof (hereinafter the "Property"); and

WHEREAS, it is the intent of the Covenantor that a servitude be placed upon the Property which establishes perpetual controls to preserve the property in its natural condition as open space and a natural habitat for flora and fauna subject to terms of this Covenant; and it is further the intent of the Covenantor that the Property shall not be developed with buildings or structures except as may be necessary to preserve the Property to ensure safe conditions for its use.

NOW THEREFORE, the Covenantor with full authority to execute deeds and covenants and all rights, to title and interests in the Property covenant as follows:

1. That except as provided herein, no buildings, structures or improvements shall be made nor shall any clearing, grading, excavation or timber cutting be undertaken of the Property and the Property shall be retained in its natural state as public open space.
2. That the Property shall not be used for any residential, commercial or industrial use and no advertising or commercial signs shall be displayed or placed upon the property.
3. The Covenantor may cut and remove weeds, brush and grasses over six (6) inches in height and may remove any tree or limbs of trees and bushes which are dead or diseased or imperil persons or Property or to protect the scenic nature of the Property.
4. The Covenantor may erect and maintain structures or improvements necessary to maintain the property and to protect the general public against any safety or natural hazards.

5. The Covenantor may erect and maintain pathways and trails, benches and picnic tables in a manner consistent with maintaining the scenic nature of the property.

TO HAVE AND TO HOLD unto the Covenantor, its successors and assigns forever, this Covenant shall be binding upon the successors and assigns of the Covenantor and shall constitute a covenant running with the title to the Property

IN WITNESS WHEREOF the duly authorized representative of the Covenantor has set their hand and seal on the date first herein set forth above.

Covenantor  
City of Gaithersburg, Maryland

ATTEST:

By: \_\_\_\_\_  
David Humpton, City Manager

STATE OF MARYLAND )  
COUNTY OF MONTGOMERY ) ss:

I HEREBY CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ before the subscriber, a Notary Public in and for the state and county aforesaid, personally appeared **DAVID HUMPTON** known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, to be their act and deed for the purposes therein contained.

WITNESS my hand and official seal the day and year above written.

\_\_\_\_\_  
Notary Public  
My Comm. Expires: \_\_\_\_\_

## EXHIBIT A

### Parcel D

Beginning at a point on the northerly right-of-way line of Crown Farm Drive (formerly Fields Road) as shown on Plat No. 6, Right-of-Way Plat, Sam Eig Highway (Montgomery County Department of Transportation R/W Plat File No. 258) said point being 39.06 feet left of Baseline Station 10+57.32 for Fields Road and running thence with said right-of-way line, as now surveyed and shown on a boundary survey entitled "Crown Estate," dated December 16, 1991 (File No. BS-354B), prepared by Dewberry & Davis, Architects - Engineers - Planners - Surveyors, 804 West Diamond Avenue, Gaithersburg, Maryland to which reference is hereby made

1. North 48° 48' 00" West, 53.19 feet; thence
2. South 73° 34' 12" West, 5.00 feet to a point 27.589 feet right of Baseline Station 14+00 for Story Drive as shown on said plat and running thence with the easterly right-of-way line of Story Drive as shown on plat of subdivision entitled "Shady Grove Village" recorded in Plat Book 86 Plat 9069
3. North 08° 58' 00" West, 675.50 feet; thence running with the southerly line of Shady Grove Village Condominium, recorded among the Condominium Plats of Montgomery County, Maryland as Plats #174 - #185
4. North 74° 32' 44" East, 230.01 feet to the northwest corner of Parcel A as shown on a plat of subdivision entitled, "Plat Two, Washingtonian Village" recorded in Plat Book 112 Plat 13125 and running thence with the westerly line thereof and also with the westerly line of "Plat One, Washingtonian Village" recorded in Plat Book 112 Plat 13124.
5. South 12° 10' 10" East, 759.00 feet to a point on the northerly right-of-way of Crown Farm Drive (formerly Fields Road) as previously mentioned and running thence with said right-of-way line
6. South 85° 00' 40" West, 223.48 feet to the point of beginning, containing 182,893 square feet or 4.1987 acres of land, subject to conditions of record.